

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BETTY S. JOHNSON and U.S. POSTAL SERVICE,
POST OFFICE, Jackson, TN

*Docket No. 00-1065; Submitted on the Record;
Issued March 26, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of disability on April 14, 1999 causally related to her April 21, 1998 employment-related injury.

On April 21, 1998 appellant, then a 54 year-old clerk, filed a notice of traumatic injury and claim for compensation benefits alleging that she was walking to her car when her left foot twisted, causing her to fall on her right foot. By letter dated July 2, 1998, the Office of Workers' Compensation Programs accepted appellant's claim for "FX TARSAL/METATARS NEC-CL." She returned to work on June 8, 1998.¹

On April 19, 1999 appellant filed a claim for recurrence of disability. She stated that on April 14, 1999, she "barely" tripped on a hose at a gas station fracturing one of the bones that had been fractured in the April 21, 1998 incident. In a form report dated April 19, 1999, Dr. Keith D. Nord, an orthopedic surgeon, noted that appellant reinjured her foot when she tripped over a gas hose and diagnosed her with a base fracture of the third metatarsal of the right foot. He noted that the second and fourth metatarsal fractures had healed uneventfully from the April 1998 incident. In a May 24, 1999 note, Dr. Nord advised that appellant could return to work on May 25, 1999, but should not stand or walk for more than two hours at a time and should not climb or squat.

By letter dated May 28, 1999, the Office requested further information from appellant, including a physician's opinion, with supporting evidence, as to the causal relationship between appellant's 1999 disability and the original injury. Appellant was given 30 days to respond. In response appellant submitted additional medical evidence which included form reports from Drs. Nord and James T. Galyon, a Board-certified orthopedic surgeon, in which the doctors

¹ The record indicates that appellant was working four hours per day and receiving compensation for an additional four hours per day due to a previous employment-related rotator cuff injury.

provided restrictions to appellant's physical activity and advised that she could return to work with restrictions on May 24, 1999. Neither physician provided an opinion regarding the cause of her condition.

By decision dated July 13, 1999, the Office denied appellant's claim for recurrence on the grounds that evidence submitted by appellant did not establish that the recurrence was causally related to the injury of April 21, 1998. In the attached memorandum, the Office noted that the evidence submitted indicated that appellant had sustained a new injury on April 19, 1999 that was not employment related.

By letter dated August 12, 1999, appellant, through her congressional representative, requested reconsideration and submitted a report dated July 7, 1999, in which Dr. Galyon stated:

"[Appellant] has been a patient of mine for several years. She sustained a fracture in her right foot on approximately April 2[1], 1998 and was seen by an orthopedic surgeon in Jackson, Tennessee who found second, third and fourth metatarsal base fractures, placed her in a cast and treated her appropriately. After apparent healing, the case was removed. However, on May 3, 1999, she developed acute pain in her foot and went back to her orthopedic surgeon in Jackson who again found fractures at the base of the third metatarsal and began treatment anew.

"I have reviewed the x-rays from the 1998 incident and in 1999. I believe that this is a continuation of the same fracture. I believe that she had a delayed union or nonunion of the first fractures from 1998 which are now being treated in 1999."

In an August 30, 1999 decision, the Office denied modification of the prior decision. The Office found that Dr. Galyon's opinion was not based on an accurate and complete history of the original injury.

The Board finds that appellant did not meet her burden of proof in establishing that she sustained a recurrence of disability on April 14, 1999 related to her April 21, 1998 employment-related injury.

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which he claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.²

² *Alfredo Rodriguez*, 47 ECAB 437 (1996); *Jose Hernandez*, 47 ECAB 288 (1996); *Carolyn F. Allen*, 47 ECAB 240 (1995); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

Causal relationship is a medical issue³ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

In this case, appellant has not submitted sufficient medical evidence to establish that her April 14, 1999 injury was a recurrence of the original injury of April 21, 1998. Appellant clearly stated on her recurrence claim form that she tripped on the hose at a gas station on April 14, 1999. She also provided Dr. Nord with a history of injury that she reinjured her foot when she tripped on a gas hose. While Dr. Nord's medical notes and reports establish that appellant sustained a fracture of the third metatarsal of the right foot in April 1999, they do not adequately relate appellant's April 14, 1999 injury to her April 21, 1998 injury. In his April 19, 1999 report, Dr. Nord noted that appellant's accepted fractures had healed uneventfully prior to the intervening 1999 injury. In his July 7, 1999 report, Dr. Galyon did not address the April 1999 incident or explain the inconsistency with his previously submitted report noting appellant's 1998 fractures had healed. As part of the burden of proof, a claimant must present rationalized medical evidence based on a specific and accurate history.⁵ Dr. Galyon's report is, therefore, insufficient to establish that appellant sustained a recurrence of disability.

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁴ *Joe L. Wilkerson*, 47 ECAB 604 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996); *Kurt R. Ellis*, 47 ECAB 505 (1996); *Thomas L. Hogan*, 47 ECAB 323 (1996); *Charles E. Burke*, 47 ECAB 185 (1995); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *See Richard A. Weiss*, 47 ECAB 182 (1997).

The decisions of the Office of Workers' Compensation Programs dated August 30 and July 13, 1999 are hereby affirmed.

Dated, Washington, DC
March 26, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member